



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/470,344	12/22/1999	DANIEL I. KERPELMAN	15-SV-5373 (GEMS:0065)	6033
68174	7590	12/11/2007	EXAMINER	
GE HEALTHCARE c/o FLETCHER YODER, PC P.O. BOX 692289 HOUSTON, TX 77269-2289			MORGAN, ROBERT W	
			ART UNIT	PAPER NUMBER
			3626	
			MAIL DATE	DELIVERY MODE
			12/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/470,344
Filing Date: December 22, 1999
Appellant(s): KERPELMAN ET AL.

MAILED

DEC 11 2007

GROUP 3600

Scott Woloson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/24/07 appealing from the Office action mailed 7/24/07.

Art Unit: 3626

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,006,191

DIRIENZO

12-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

Art Unit: 3626

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 and 5-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 6,006,191 to DiRienzo.

As per claim 1, DiRienzo teaches a medical facility data communications system, the system comprising:

--the claimed internal data communications network is met by the use of digital communication links such as Ethernet (see: column 19, lines 35-42);

--the claimed plurality of clients coupled to the internal network and uniquely addressed on the internal network, the clients include a plurality of medical diagnostic imaging modalities configured to produce image data is met by the different clients such as the CHC (200, Fig. 3) connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49) this suggests that while using different networks such as the Intranet all addresses are unique. Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet

Art Unit: 3626

include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communications control system coupled to the internal network.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claims 2-3, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

As per claim 5, DiRienzo teaches the claimed plurality of medical diagnostic imaging modalities are selected from a group including medical resonance imaging system, computed tomography systems, ultrasound systems, and x-ray systems (see: column 5, lines 13-25).

As per claims 6-8, DiRienzo teaches the claimed clients include a hospital information system, radiology department and picture archiving and communication system (see: column 19, lines 25-28).

As per claims 9-10, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communications control system configured to access data.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to access data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claims 11-12, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

Art Unit: 3626

DiRienzo fails to explicitly teach the claimed use of the at least one mobile client connected to the internal network to access data.

It is well known in computer medical industry that using a portable computer allows a user access to the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to either use a portable computer or a hard wired computer within the data transmission as taught by DiRienzo with the motivation of allowing the user unlimited opportunities to access and retrieve information on the Internet, thereby facilitating the approach of gathering information through over a network in a less time consuming and efficient manner.

As per claim 13, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) data within the data transmission as taught by DiRienzo with the

Art Unit: 3626

motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 14, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed exchanging client data and addressed data between the data communications control system and the remote service provider

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) to exchange data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 15, DiRienzo teaches the claimed external network interface includes an interface for at least two different data communications media (see: column 19, lines 25-49).

As per claim 16, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider

Art Unit: 3626

(e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

As per claim 17, DiRienzo teaches a data communications system for a medical diagnostic facility, the system comprising:

--the claimed plurality of clients linked to an internal network, the clients including a plurality of medical diagnostic imaging modalities is met by the different clients such as the CHC (200, Fig. 3) connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

DiRienzo fails to explicitly teach the claimed data communications control system linked to the internal network.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 18, DiRienzo teaches the claimed client data includes operational data for evaluating performance of the plurality of medical diagnostic imaging modalities. This limitation is met by the RAMIX system (100, Fig. 3), which receives, stores and downloads medical images requiring diagnostic readings and receives, stores and transmits reports regarding the diagnostic readings performed on the medical images (see: column 18, lines 37-42). Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic

Art Unit: 3626

imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

As per claims 19-21, DiRienzo teaches a system wherein data transmission among one or more system clients (e.g. the Imaging center, the CHC, the physician at the diagnostic reading center, and gatekeeper) employs several different types of networks to interconnect the different system clients (see: column 19, lines 25-49).

DiRienzo fails to explicitly teach the claimed external network is a wide area network that includes the Internet.

However, at the time of the Applicants' invention, it would have been obvious to one of ordinary skill in the art to modify the system of DiRienzo to transfer data via a WAN link that includes the Internet. As suggested by DiRienzo, one would have been motivated to modify the system to accommodate the preferences of various system users and to ensure that the system operates efficiently with the available network resources and cost constraints of different users (see: column 19, lines 40-42).

As per claims 22-24, DiRienzo teaches the claimed clients include a hospital information system, radiology department and picture archiving and communication system (see: column 19, lines 25-28).

As per claims 25-26, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

Art Unit: 3626

DiRienzo fails to explicitly teach the claimed data communication control system configured to access data.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to access data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 27-28, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed use of the at least one mobile client connected to the internal network to access data.

It is well known in computer medical industry that using a portable computer allows access the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to either use a portable computer or a hard wired computer within the data transmission as taught by DiRienzo with the motivation of assisting the users

Art Unit: 3626

with accessing and retrieving information on the Internet, thereby facilitating the approach of gathering information through over a network in a less time consuming and efficient manner.

As per claim 29, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to access data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claims 30-31, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56).

Art Unit: 3626

In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to store and execute communications interface within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 32, DiRienzo teaches a communications system for a medical diagnostic facility, the system comprising:

--the claimed internal network is met by the use of digital communication links such as Ethernet (see: column 19, lines 35-42);

--the claimed plurality of clients configured for connection to the network for transmission of client data and plurality of medical diagnostic imaging modalities. This feature is met by the different clients such as the CHC (200, Fig. 3) connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's

Art Unit: 3626

office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce “diagnostic medical images” (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician’s office and the gatekeeper’s office using the Intranet include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

DiRienzo fails to explicitly teach the clients including a physically mobile client as well as the data communications control system being configured to automatically access client data including data indicative of a location of the mobile client and data communication control system coupled to the internal network.

It is well known in computer medical industry that using a portable computer allows access the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to either use a portable computer or a hard wired computer within the data transmission as taught by DiRienzo with the motivation of assisting the users with accessing and retrieving information on the Internet, thereby facilitating the approach of gathering information through over a network in a less time consuming and efficient manner. In addition, DiRienzo teaches the transmission of data between the medical diagnostic facility and

Art Unit: 3626

the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to automatically access client data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 33, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56).

DiRienzo fails to teach the claimed control system is configured to detect the location of the mobile client upon connection of the mobile client to the network.

It is well known in computer medical industry that using a portable computer allows access the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to either use a portable computer or a hard wired computer including the location of the computer within the data transmission as taught by DiRienzo with the motivation of assisting the users in uniquely identifying specific addressing information, thereby providing a simpler and quicker way to access desired data over a network.

As per claim 34, DiRienzo teaches the claimed wherein the client data includes operational data for evaluating performance of the plurality of medical diagnostic imaging

Art Unit: 3626

modalities. This limitation is met by the RAMIX system (100, Fig. 3), which receives, stores and downloads medical images requiring diagnostic readings and receives, stores and transmits reports regarding the diagnostic readings performed on the medical images (see: column 18, lines 37-42). Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

As per claims 35-37, DiRienzo teaches a system wherein data transmission among one or more system clients (e.g. the Imaging center, the CHC, the physician at the diagnostic reading center, and gatekeeper) employs several different types of networks to interconnect the different system clients (see: column 19, lines 25-49).

DiRienzo fails to explicitly teach the claimed external network is a wide area network that includes the Internet.

However, at the time of the Applicants' invention, it would have been obvious to one of ordinary skill in the art to modify the system of DiRienzo to transfer data via a WAN link that includes the Internet. As suggested by DiRienzo, one would have been motivated to modify the system to accommodate the preferences of various system users and to ensure that the system

Art Unit: 3626

operates efficiently with the available network resources and cost constraints of different users (see: column 19, lines 40-42).

As per claims 38-40, DiRienzo teaches the claimed clients include a hospital information system, radiology department and picture archiving and communication system (see: column 19, lines 25-28).

As per claims 41-42, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communication control system configured to access data.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to access data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 43, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider

Art Unit: 3626

(e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claims 44-45, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communications control system configured to store and execute communications interface.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal

Art Unit: 3626

network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to store and execute communications interface within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 46, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56). In addition, DiRienzo teaches the RAMIX system (100, Fig. 3), which receives, stores and downloads medical images requiring diagnostic readings and receives, stores and transmits reports regarding the diagnostic readings performed on the medical images (see: column 18, lines 37-42). Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to store and execute communications interface within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 47, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data

Art Unit: 3626

communication control system) configured to store and execute communications interface within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 48, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to store and execute communications interface within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 49, DiRienzo teaches the claimed control system includes an operator interface, and wherein the request is generated via the operator interface (see: column 26, lines 45-56).

As per claim 50, DiRienzo teaches the claimed client data is transmitted to the control system in a transmission created by operator intervention at the client (see: column 26, lines 45-56).

As per claims 51-53, DiRienzo teaches the claimed transmission is created via an interface routine executed interactively by the control system and client, interface routine includes a web browser application and the step of storing client data for access by the control system (see: column 26, lines 45-56).

As per claim 54, DiRienzo teaches the claimed the step of logging communications between the clients and the control system. The features is met by the RAMIX system (100, Fig. 3), which receives, stores and downloads medical images requiring diagnostic readings and receives, stores and transmits reports regarding the diagnostic readings performed on the medical images (see: column 18, lines 37-42).

As per claim 55, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56).

Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic

Art Unit: 3626

imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

DiRienzo fails to explicitly teach the claimed the clients including at least one physically mobile client and transmitting client data from the clients to a data communications control system, the client data including at least data indicative of a location of the at least one mobile client.

It is well known in computer medical industry that using a portable computer allows access the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to either use a portable computer or a hard wired computer within the data transmission as taught by DiRienzo with the motivation of assisting the users with accessing and retrieving information on the Internet, thereby facilitating the approach of gathering information through over a network in a less time consuming and efficient manner. In addition, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to automatically access client data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

Art Unit: 3626

As per claims 56-57, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56).

DiRienzo fails to teach at least one mobile client is transmitted upon connection of the at least one mobile client to the network and the step of accessing client data representative of performance of the clients.

It is well known in computer medical industry that using a portable computer allows access the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to either use a portable computer or a hard wired computer including the location of the computer within the data transmission as taught by DiRienzo with the motivation of assisting the users in uniquely identifying specific addressing information, thereby providing a simpler and quicker way to access desired data over a network.

As per claim 58, this feature has addressed in the rejection of claim 29, and is incorporated herein.

As per claim 59, DiRienzo teaches the claimed step of transmitting at least a portion of the client data to a remote service provider via an external network. This feature is met by transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

Art Unit: 3626

As per claim 60, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

(10) Response to Argument

In the Appeal Brief filed 26 March 2006, Appellant makes the following arguments:

(A) DiRienzo does not teach or suggest a plurality of medical diagnostic imaging modalities coupled on an internal network.

(B) DiRienzo does not teach or suggest the recited data communication control system.

(C) DiRienzo does not teach or suggest a DCCS configured to access data from networked clients in accordance with a predetermined data acquisition routine, where the data accessed includes operational parameters of the clients.

(D) DiRienzo does not teach or suggest a DCCS element that includes an operator interface and is configured to access data from networked client in response to an operator request input via the operator interface.

(E) DiRienzo does not teach or suggest that all data communications between selected clients and the remote service provider are routed through the data communication control system.

Art Unit: 3626

(F) DiRienzo does not teach or suggest a DCCS configured to store and execute communications interface routine interactively with the clients, where the communications interface routines includes a web browser routine.

Examiner will address Appellant's arguments in sequence as they appear in the brief.

Response to Arguments (A)

In response to argument (A) The Examiner respectfully submits that DiRienzo teaches different clients such as the CHC (200, Fig. 3) connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49) this suggests that while using different networks such as the Intranet all addresses are unique. Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This clearly suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images. Moreover, DiRienzo teaches there are many different modalities include X-Ray, EKG, EEG, MRI, CT, NM, PET, blood tests, microscope images, etc... and each of these modalities produces a characteristic "diagnostic medical image" (see: column 2, lines 8-17). This further demonstrates that each of the CHC's at a physician's office could be a medical diagnostic imaging modality connected to the Intranet (internal network).

Response to Arguments (B)

In response to argument (B) DiRienzo discloses a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site) and a remote data provider (e.g. CHC), using two or more (e.g. a first and second) communications media. The method allows one or more physicians at a diagnostic reading site (i.e. medical diagnostic facility) to connect to a network to review data (col. 26, lines 45-56). The physician(s) may also request data from the CHC (i.e. remote data provider) via a communications channel and have that requested data transmitted (i.e. forwarded/routed) to them via a communications channel (col. 28, lines 1-32, col. 36, lines 23-49). While DiRienzo does not expressly disclose the recited “providing a data control communications system (DCCS) linked to a network of the medical diagnostic facility,” the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote data provider) via a network requires the use of a network/communication interface (e.g. the recited DCCS), and thus obviates the step of providing a DCCS (i.e. communication interface) linked to a network of the medical diagnostic facility. Furthermore, at the time of the Applicant’s invention, it would have been obvious to one of ordinary skill in the art that data requests originating at the medical diagnostic facility and transmitted to the remote data provider would pass from the communication interface at the medical facility (e.g. the recited DCCS) to the remote data provider via a communications medium. One would have been motivated to include network/communication interface (e.g. the recited DCCS) in the data transmission process to facilitate reliable physician access to patient data to be reviewed.

Appellant again contends that the term DCCS is defined throughout the specification and that a communication interface cannot be the recited DCCS because an interface does not include

Art Unit: 3626

all of the components defined to be within the DCCS. However, the pages of the specification cited by the Appellant to provide “definitions” for the recited DCCS use non-committal language to describe the features that can be or may be included in the DCCS. For example, page 10, lines 10-15 of the Appellant’s specification specifically states that Figure 2 is an exemplary configuration for the recited DCCS.

The Appellant has failed to recite or claim features that distinguish the recited “DCCS” from any standard communication interface required for the transmission of data over communications media in the system of DiRienzo. For example, the Appellant’s specification, page 7, lines 23-27, describes a the DCCS as a system component that “is coupled to a network for receiving or accessing data from the client, and for exchanging data with one or more remote service or data providers.” The specification goes on to explain that the DCCS is coupled to external communications circuitry.

One of ordinary skill in the art would have understood that these described functions are the functions of a standard network communication interface. Moreover, a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site) and a remote data provider (e.g. CHC) using two or more communications media, as disclosed by DiRienzo (Figure 3, col. 26, lines 51-67, col. 28, lines 1-32), obviates the presence of a communication interface (e.g. DCCS) linked to a network of the medical diagnostic facility. One of ordinary skill in the art would have understood that any data (i.e. requests) originating at the medical diagnostic facility and transmitted to the remote data provider in the system of DiRienzo would pass from a communication interface at the medical

Art Unit: 3626

facility (e.g. the recited DCCS) to the remote data provider via a communications medium (e.g. external communications circuitry).

In the absence of a positive definition of the claimed DCCS as a component, which must perform certain functionalities, the Examiner has given the term the broadest reasonable interpretation, and has applied art accordingly.

Response to Arguments (C) and (D)

In response to arguments (C) and (D) The Examiner respectfully submits that DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56). Furthermore, each diagnostic reading site e.g. hospital or diagnostic physician office (400, Fig. 3) includes a computer (410, Fig. 3) with operating software capable of connecting the computer (410, Fig. 3) to the CHC (200, Fig. 3) via comm channels (see: column 26, lines 45-56). Moreover, DiRienzo teaches a RAMIX system (100, Fig. 3), which receives, stores and downloads medical images requiring diagnostic readings and receives, stores and transmits reports regarding the diagnostic readings performed on the medical images (see: column 18, lines 37-42). This clearly shows reports that indicate operational parameters that are the readings performed by the medical diagnostic imaging modality. The RAMIX also includes providing access to data from a network client such as the Imaging center, the CHC, the physician at the diagnostic reading center, and gatekeeper (see: column 19, lines 25-49).

Response to Arguments (E)

Art Unit: 3626

In response to argument (E) The Examiner respectfully submits DiRienzo discloses a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site) and a remote data provider (e.g. CHC), using two or more (e.g. a first and second) communications media. The method allows one or more physicians at a diagnostic reading site (i.e. medical diagnostic facility) to connect to a network to review data (col. 26, lines 45-56). The physician(s) may also request data from the CHC (i.e. remote data provider) via a communications channel and have that requested data transmitted (i.e. forwarded/routed) to them via a communications channel (col. 28, lines 1-32, col. 36, lines 23-49). While DiRienzo does not expressly disclose the recited “providing a data control communications system (DCCS) linked to a network of the medical diagnostic facility,” the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote data provider) via a network requires the use of a network/communication interface (e.g. the recited DCCS). Moreover, if Applicant's were correct in his assertion that DiRienzo teach away from routing all of the data through one gateway which Examiner does not admit, it has been held that prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

Response to Arguments (F)

In response to argument (F) The Examiner respectfully submits DiRienzo teaches that each diagnostic reading site e.g. hospital or diagnostic physician office (400, Fig. 3) includes a computer (410, Fig. 3) with operating software capable of connecting the computer (410, Fig. 3) to the CHC (200, Fig. 3) via comm channels (see: column 26, lines 45-56). While DiRienzo does

Art Unit: 3626

not expressly disclose the recited "providing a data control communications system (DCCS) linked to a network of the medical diagnostic facility," the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote data provider) via a network requires the use of a network communication interface (e.g. the recited DCCS), and thus obviates the step of providing a DCCS (i.e. communication interface) linked to a network of the medical diagnostic facility. Furthermore, the operating software suggests the use of a web browser to communication data between the medical diagnostic facility and the CHC (i.e. the remote data provider) via a network that requires the use of a network communication interface (e.g. the recited DCCS).

(11) Related Proceeding(s) Appendix

Copies of the court or Board decision(s) identified in the Related Appeals and Interferences section of this examiner's answer are provided herein.


For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,


Robert Morgan

Primary Patent Examiner
Tech Center 3600

Conferees:


Luke Gilligan
Primary Patent Examiner
Tech Center 3600


Alex Kalinowski
Supervisor Patent Examiner
Tech Center 3600

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 19

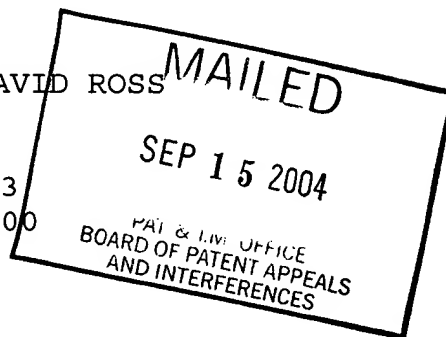
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAMES KOHLI and DAVID ROSS

Appeal No. 2004-0423
Application 09/470,000

ON BRIEF



Before KRASS, FLEMING, and RUGGIERO, Administrative Patent Judges.

RUGGIERO, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal from the final rejection of claims 1-9, 11-21, and 23-40, which are all of the claims pending in the present application. Claims 10, 22, and 41 have been canceled. An amendment filed February 10, 2003 after final rejection was approved for entry by the Examiner.

The claimed invention relates to a method and system for exchanging data between a medical diagnostic facility and a remote data provider in which data is transferred through multiple parallel data communications media. A data communications control system (DCCS) is provided at a medical diagnostic facility where diagnostic systems are linked to an internal network. Information is exchanged between the medical diagnostic facility and the remote data provider over a selected communications media which offers the most efficient exchange dependent on the nature or volume of the information to be transmitted.

Claim 1 is illustrative of the invention and reads as follows:

1. A method for transmitting data between a medical diagnostic facility and a remote data provider, the method comprising the steps of:

(a) providing first and second digital data communication media between a medical diagnostic facility and a remote data provider;

(b) providing a data communications control system ("DCCS") linked to a network of the medical diagnostic facility;

(c) formulating a data request and transmitting the request to the DCCS at the medical diagnostic facility;

(d) transmitting the request from the DCCS at the medical diagnostic facility to a remote data provider via the first data communications medium;

Appeal No. 2004-0423
Application No. 09/470,000

(e) receiving and processing the request by the remote data provider;

(f) selecting the first or the second data communications medium for transmission of the requested data; and

(g) transmitting the requested data to the DCCS at the medical diagnostic facility via the selected data communications medium.

The Examiner relies on the following prior art:

DiRienzo	6,006,191	Dec. 21, 1999
----------	-----------	---------------

Claims 1-9, 11-21, and 23-40, all of the appealed claims, stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over DiRienzo.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Briefs¹ and the Answer for the respective details.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the Examiner and the evidence of obviousness relied upon by the Examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, Appellants' arguments

¹ The Appeal Brief was filed June 11, 2003 (Paper No. 14). In response to the Examiner's Answer mailed August 27, 2003 (Paper No. 15), a Reply Brief was filed October 31, 2003 (Paper No. 16), which was acknowledged and entered by the Examiner in the communication dated November 17, 2003 (Paper No. 17).

Appeal No. 2004-0423
Application No. 09/470,000

set forth in the Briefs along with the Examiner's rationale in support of the rejection and arguments in rebuttal set forth in the Examiner's Answer.

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would have suggested to one of ordinary skill in the art the obviousness of the invention as set forth in appealed claims 1-9, 11-21, and 23-40. Accordingly, we affirm.

Appellants' arguments in response to the Examiner's rejection of the appealed claims are organized according to a suggested grouping of claims indicated at page 6 of the Brief. We will consider the appealed claims separately only to the extent separate arguments for patentability are presented. Any dependent claim not separately argued will stand or fall with its base claim. Note In re King, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re Sernaker, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983). Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellants could have made but chose not to make in the Brief have not been considered and are deemed to be waived [see 37 CFR § 1.192(a)].

With respect to the Examiner's 35 U.S.C. § 103(a) rejection of independent claim 1 based on the DiRienzo reference, Appellants contend that the Examiner has failed to establish a prima facie case of obviousness since all of the claim limitations are not taught or suggested by the applied prior art. We do not find Appellants' arguments to be persuasive for the reasons which we set forth infra.

Initially, we find no error in the Examiner's position (Answer, pages 4-6) relative to the claimed data communications and control system (DCCS) which, in our view, correctly asserts that, giving the claimed terminology the broadest reasonable interpretation, there is no claim language which distinguishes over any conventional communication interface that would be required for the transmission of data between the medical diagnostic facility 400 and the remote data provider 200 in DiRienzo. Although Appellants contend (Brief, page 15) that the DCCS is clearly defined throughout the specification, we fail to find any such specific definition in Appellants' disclosure. As pointed out by the Examiner, Appellants' description of the DCCS is replete with non-committal, exemplary language which can only lead to the conclusion that the described features may or may not be present in the DCCS. In our opinion, Appellants' arguments

improperly attempt to narrow the scope of the claim by implicitly adding disclosed limitations which have no basis in the claim.

See In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997).

Further, we agree with the Examiner that, although Appellants make reference (id.) to page 7, lines 23-27 of the specification which describes the DCCS as coupled to a network for exchanging data between a client and a remote data provider, we fail to see why this describes anything except a conventional network communications interface. In our view, the skilled artisan would clearly recognize and appreciate that in order for information to be exchanged in DiRienzo between the medical diagnostic facility 400 and the remote data provider 200 over the described communications media 226, 230, a communications interface would be necessary at the medical diagnostic facility to direct and coordinate the communications exchange.

We recognize that Appellants have responded to the Examiner's arguments on the DCCS issue at page 2 of the Reply Brief by asserting that, since DiRienzo's system must be assumed to include separate communications channels at the diagnostic facility 400, there would be no need for any data communications control or coordination system. We do not find this assertion to

be persuasive. We find no basis for Appellants' conclusion that separate communication channels obviates the need for data communication control and coordination since it is apparent to us that even separate communications channels would require coordination and control to provide proper exchange of data over the separate channels.

We also find to be without merit Appellants' arguments (Brief, Page 16) that the disclosure of DiRienzo does not satisfy the claimed requirement that the DCCS is linked "to a network of the medical diagnostic facility" In Appellants' view, since DiRienzo's only connections to the workstation 410 in the medical facility 400 are the communication channels 220 and 230, there is no disclosed network in the medical diagnostic facility.

We agree with the Examiner's position (Answer, pages 30 and 31), however, since again it is apparent that Appellants are arguing limitations which are not in the claims. As pointed out by the Examiner, the language of independent claim 1 does not require that a network be provided in the medical diagnostic facility, but only that the DCCS be linked to a network of the medical diagnostic facility. With this in mind, we see no error in the Examiner's assertion that DiRienzo's description of a pool of physicians, each having an associated medical diagnostic

facility, i.e., a graphics workstation in their respective offices, and having communication access to the remote data provider 200, constitutes a disclosure of a medical diagnostic facility network.

Similarly, to whatever extent Appellants' further argument (Brief, pages 17 and 18) that DiRienzo does not disclose selecting between first and second data communications media for the transmission of requested data from the remote data provider may be correct, there is no claimed requirement of selecting between first and second communications media, as asserted by the Examiner. We agree with the Examiner (Answer, pages 31 and 32) that, since data from the remote data provider 200 in DiRienzo is transmitted over one of the communication media 220, 230 connecting with the medical diagnostic facility, the present claim language is satisfied since one communication medium is in fact selected for transmission.

In view of the above discussion, since it is our opinion that the Examiner's prima facie case of obviousness has not been overcome by any convincing arguments from Appellants, the Examiner's 35 U.S.C. § 103(a) rejection of independent claim 1, as well as dependent claims 2-9, 11, and 12 not separately argued by Appellants, is sustained.

We also sustain the Examiner's 35 U.S.C. § 103(a) rejection of independent claim 13, as well its dependent claims 14-21, 23, and 24 not separately argued by Appellants. The wording of independent claim 13 differs slightly from that of previously discussed claim 1 in that emphasis is provided for the claimed feature that a request for data transmitted from the medical diagnostic facility is over a low bandwidth channel while the transmission of the requested data from the remote data provider back to the medical diagnostic facility is over a high bandwidth channel.

Appellants' arguments in response (Brief, page 22) to the Examiner's rejection emphasize the fact that the Examiner has admitted that DiRienzo lacks a specific teaching of determining a particular channel to use for transmission of requests to the remote data provider as well as the selection of a channel for transmission of requested data from the remote data provider. While Appellants' arguments correctly state what the Examiner has admitted relative to the express disclosure of DiRienzo, there are no convincing arguments directed to the Examiner's line of reasoning which asserts the obviousness to the skilled art of the claimed communication channel transmission feature. As asserted by the Examiner, (Answer, pages 36 and 37), DiRienzo clearly

recognizes the need for transmission over different bandwidth channels depending on type and amount of data to be transmitted (DiRienzo, column 27, line 7 through column 28, line 58). With this in mind, we simply find no error in the Examiner's position that the skilled artisan would have recognized and appreciated the obviousness of utilizing a low bandwidth channel for transmitting a request for data while using a high speed channel for transmitting back requested high volume data that may include graphical medical images. We also find to be unconvincing, for all of the reasons discussed supra, Appellants' reiterated arguments directed to the claimed DCCS and medical diagnostic facility network features.

Turning to a consideration of the Examiner's obviousness rejection of independent claim 25, and dependent claims 26-33 not separately argued by Appellants, we sustain the rejection of these claims as well. Initially, we note that Appellants have repeated their arguments made with respect to independent claims 1 and 13 relative to the claimed DCCS, medical diagnostic facility network, and transmission channel selection features, which arguments we found to be unpersuasive for all of the previously discussed reasons.

With respect to the specific language of independent claim 25, Appellants direct attention to the limitation which requires that requested data is received at the DCCS and distributed "to the requested client or the medical diagnostic system." In Appellants' view (Brief, page 26), DiRienzo's disclosure, as interpreted by the Examiner, does not teach this feature. According to Appellants, since, according to the Examiner, the DCCS is at DiRienzo's client medical diagnostic facility 400 which does not communicate with the medical diagnostic system, i.e., the imaging center 300, the claimed requirements are not satisfied.

We recognize that the Examiner (Answer, pages 41 and 42) offers an interpretation of DiRienzo that asserts that the medical diagnostic facility at the client diagnostic physician's office 400 can also be considered to be a medical diagnostic system. In our opinion, however, we do not need to reach a decision on the merits of such an interpretation since, as also pointed out by the Examiner, claim 25 is written in alternative language, i.e., the distribution of requested data to the requesting client or the medical diagnostic system. It is apparent to us that since DiRienzo clearly and unambiguously discloses the distribution of requested data to one of the

recited locations, i.e., the requesting client at the medical diagnostic facility 400, the claimed requirements are satisfied.

Lastly, we also sustain the Examiner's 35 U.S.C. § 103(a) rejection of independent claim 34, as well as its dependent claims 35-40 not separately argued by Appellants. Independent claim 34, despite slight differences in wording, is directed to the same features that appear in previously discussed independent claims 1, 13, and 25, i.e., a DCCS, a medical diagnostic facility network, and the transmission of data requests and requested data over plural transmission media with high and low bandwidth capability. Appellants' arguments in response to the Examiner's rejection of claim 34 repeat their previous arguments relative to these claimed features, and we find such arguments to be equally unpersuasive for all of the previously discussed reasons.

In summary, we have sustained the Examiner's 35 U.S.C. § 103(a) rejection of all of the claims on appeal. Therefore, the decision of the Examiner rejecting claims 1-9, 11-21, and 23-40 is affirmed.

Appeal No. 2004-0423
Application No. 09/470,000

No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a).

AFFIRMED



ERROL A. KRASS)
Administrative Patent Judge)



MICHAEL R. FLEMING)
Administrative Patent Judge)

BOARD OF PATENT
APPEALS AND
INTERFERENCES



JOSEPH F. RUGGIERO)
Administrative Patent Judge)

JFR/dal

Appeal No. 2004-0423
Application No. 09/470,000

PATRICK S YODER
7915 FM 1960 WEST SUITE 330
HOUSTON TX 77070